

**GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING COMMITTEE
Public Hearing Minutes – June 4, 2008 – 6:00 p.m.**

CALL TO ORDER

Committee Chair Sue McConnell called the meeting of the Land Use Planning and Zoning Committee to order at 6:00 p.m. in the Green Lake County Courthouse, County Board Room, Green Lake, Wis. The requirements of the open meeting law were certified as being met.

Present: **Roberta Erdmann, Eugene Henke, Susan McConnell, Howard Sell, Thomas Traxler, Jr.**

Absent:

Also Present: **Al Shute**, County Surveyor/Land Development Director
Jeff Haase, Assistant Corporation Counsel
Carole DeCramer, Committee Secretary
Orrin Helmer, County Board Chair

APPROVAL OF AGENDA

Motion by Erdmann/Sell, unanimously carried, to approve the amended agenda. Motion carried.

PUBLIC HEARING MATTERS

Committee Chair McConnell read the Rules of Order.

Audio of testimony is available upon request from the Green Lake County Land Use Planning and Zoning Department.

Item I: Owner/Applicant: Keith R & Carol Z Myers **Site Address:** Southeast corner of CTH PP and McConnell Road intersection and along those roads to the east and south, Parcel #004-00229-0000, NW¼ of the NW¼ of Section 12, T16N, R13E, Town of Brooklyn (± 24.278 Acres) **Explanation:** The owner/applicant is requesting a zoning change from A-1 Exclusive Agriculture District to A-2 General Agriculture District

a) Public Hearing

Keith Myers, N6698 CTH PP, owner of the property – Spoke in favor of the request.

Sharon Gebhardt, N6930 CTH PP, representing all of the property owners that abut the Myers parcel – Spoke against the request.

Mike Krause, W510 McConnell Road – Spoke against the request.

Public hearing closed.

b) Committee Discussion and Deliberation

The committee discussed the staff report that explained that, by rezoning the parcel from A-1 to A-2, the parcel would conform and remain consistent with the surrounding agricultural use. The committee

agreed that the rezone request is compatible with the Town of Brooklyn comprehensive plan and meets the criteria for rezoning a property.

c) Committee Decision

Motion by Traxler/Erdmann, unanimously carried on roll call (5-ayes, 0-nays), to recommend approval of the rezone request as presented and forward to the county board for action. Motion carried.

d) Execute Determination Form/Ordinance

Item II: Owner: Badger Mining Corporation **Site Address:** Utley Quarry Rd and CTH JJ, Parcel #006-00729-0000, The W 60R of the SW¼ of the SE¼ of Section 36, T15N, R13E, Town of Green Lake, (± 27.664 Acres) **Explanation:** The owner/applicant is requesting a zoning change from A-1 Exclusive Agriculture District to M-1 Mineral Extraction District.

a) Public Hearing

Martin Lehman, N7297 Springbrook Road, Safety Associate for Badger Mining Corporation – Explained the request and spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

The committee discussed the staff report recommendations as well as the company's reclamation plan.

c) Committee Decision

Motion by Erdmann/Henke, unanimously carried on roll call (5-ayes, 0-nays), to recommend approval of the rezone request as presented and forward to the county board for action. Motion carried.

Item III: Owner: Badger Mining Corporation **Site Address:** Utley Quarry Rd and CTH JJ, Parcel #006-00729-0000, The W 60R of the SW¼ of the SE¼ of Section 36, T15N, R13E, Town of Green Lake, (± 27.664 Acres) **Explanation:** The owner/applicant is requesting a conditional use to expand the existing non-metallic mining operation.

a) Public Hearing

Jim Fox, Town of Green Lake Chairman – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

The staff-recommended conditions were discussed including the height of the berm.

Motion by Erdmann/Sell, unanimously carried, to suspend the rules to allow the committee to ask questions of Mr. Lehmann. Motion carried.

The staff report included nine recommended conditions. Mr. Lehman questioned whether or not some of the conditions were relevant since MSHA required some of the same things. The committee questioned Mr. Lehman regarding MSHA's requirements for berms, financial assistance, dust control, warning signs, and erosion control. Also discussed was a gap or a gate in the berm for ingress and egress.

c) Committee Decision

Motion by Henke/Traxler, unanimously carried on roll call (5-eyes, 0-nays), to approve the conditional use request with the following conditions:

- 1) All activity will follow Chapter NR 135, Wisconsin Administrative Code and the Green Lake County Non-Metallic Mining Ordinance.**
- 2) That all other applicable laws, ordinances and regulations be satisfied.**
- 3) No additional expansion of the operation shall occur without review and approval through future Conditional Use permit(s).**
- 4) The proposed mining area to maintain a setback of 100 feet to neighboring lot lines. A berm eight feet high, minimum, shall be created along those lot lines outside the required yard setback areas, excepting any gated traffic lanes through the berm.**
- 5) Warning signs advertising "active quarry" should be placed on berms and/or along property line.**
- 6) That the Conditional Use Permit is valid only if the zone change is approved by the County Board.**

Motion carried.

Item IV: Owner: Gregory A Radtke **Site Address:** W3645 and W3511 CTH B, Parcel #014-00701-0000 (± 11.2 Acres), A part of the NW¼ of the SW¼, and Parcel #014-00700-0000 (± 11.5 Acres), A part of the NE¼ of the SW¼ of Section 27, Both parcels in T15N, R12E, Town of Marquette
Explanation: The owner/applicant is requesting a zoning change from A-1 Exclusive Agriculture District to A-3 Light Agriculture District.

a) Public Hearing

Gregory A. Radtke, W1507 Sandstone Avenue, Ripon, owner of the property – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

The staff comments were discussed; i.e. the request is compatible with the Town of Marquette comprehensive plan, it is an associated agricultural use, and it is consistent with the surrounding area. It is unlikely that there is any significant degradation of public health, morals, or safety. The town does not object to the request.

c) Committee Decision

Motion by Henke/Sell, unanimously carried on roll call (5-ayes, 0-nays), to recommend approval of the rezone request as presented and forward to the county board for action. Motion carried.

Item V: Applicant: Green Lake County Land Use Planning and Zoning Committee **Explanation:** Request to amend code of Green Lake County, Chapter 350 of the Zoning Ordinance, Sections 350-27, 350-28, 350-29, and 350-30, all agricultural zoning districts. The purpose of the ordinance amendments is to expand the agricultural zoning district conditional uses to include schools and to delete existing language that is no longer appropriate. Ordinance is available for review and inspection at the County Land Use Planning & Zoning Department.

a) Public Hearing

Harley Bontrager, W4376 STH 44, Markesan, Chairman of the Committee for Parochial Schools - Spoke in favor of the ordinance amendment.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute explained why staff feels the need to amend the zoning ordinance. Schools were taken out of the agricultural districts in 2002 or 2003 and can presently be built only in residential districts. To avoid rezoning agricultural land to residential to allow for rural schools, the agricultural districts must be amended to add schools. There are some other minor ordinance amendments that include deleting animal husbandry that is now covered by the state animal citing regulations. Another amendment includes deleting extensive commercial activity in an agricultural district because it is in conflict with the Farmland Preservation standards.

c) Committee Decision

Motion by Traxler/Erdmann, unanimously carried on roll call (5-ayes, 0-nays), to recommend approval of the ordinance amendment as presented and forward to the county board for action. Motion carried.

Item VI: Owner: Lawsonia, Inc. and American Baptist Assembly c/o Ken Giacoletto **Agent:** Davel Engineering, Inc. **Tax Parcel # and Description:** Affected parcel numbers for Lawsonia, Inc. 004-1776-0000, 004-01776-0100, 004-01776-0101 and 004-01777-0000; affected parcels for American Baptist Assembly 004-0724-0000, 004-00724-0100, 004-01780-0000, 004-0725-0100, 004-0728-0000, 004-0731-0000, 004-0732-0000, 004-0872-0000 all parcels located in part of Section 25 T16N R12E and part of Section 30 T16N R13E Town of Brooklyn. The site is generally located along the south side of STH 23 on the east side of the Green Lake Conference Center grounds. **Location of Premises Affected:** Generally located south of State Road 23, site known as Green Lake Conference Center **Explanation:** Owner/applicant is requesting multiple zoning changes on the site in question being a change from R-1 Single-Family Residence District to C-2 Extensive Commercial District and changes from RC Recreational District to R-1 Single-Family Residence District and from R-1 Single Family Residence District to RC Recreational.

a) Public Hearing

Mary Jane Bumby, W2125 Irving Park Road – Spoke against the request.

Ted Dominowski, 2596 Oakridge Road, Neenah, one of the principal owners of Lindenwood Development - Spoke for the request.

Attorney Richard Martens, 1034 Belleforte, Oak Park, IL, and W2965 Hillside Road – Spoke against the request.

Edie Johnston, W2347 Carpenter Lane – Spoke against the request.

Attorney Robert Duimstra, Menn Law Firm, Appleton, representing Lindenwood Development – Spoke in favor of the request.

Bonnie Svenson – W2334 Carpenter Lane – Spoke against the request.

Gordy Farrell, Green Lake School District – Stated that the school district would like to be considered for the land that would be dedicated under 315-13.

Attorney Steven Sorenson, Sorenson Law Office, representing propertyowners in the ABA – Spoke against the request.

Attorney Mark Hazelbaker, 3555 University Avenue, Madison, retained by the Town of Brooklyn – Spoke in favor of the request.

Attorney Jenna Walker, Sorenson Law Office, W1049 Illinois Avenue (residence) – Clarified a statement made by Attorney Hazelbaker; i.e., conditional zoning is allowed if it's allowed in your ordinance. Both conditional and contract zoning are illegal in Green Lake County.

Attorney Steve Wood, Chairman of the Joint Advisory Committee for Land Use Matters – Spoke against the request.

Mary Lofgren, N5349 Shore Road – Expressed concern for future generations.

Attorney Jeff Haase, Assistant Corporation Counsel for Green Lake County – Commented on the legal issues regarding spot zoning, the comprehensive plan, and contract zoning.

Public hearing closed.

b) Committee Discussion and Deliberation on Each Request

The committee discussed the staff comments regarding Exhibit A.

c) Committee Decision

1) RC Recreational District to R-1 Single Family Residence District (Exhibit A)

Motion by Erdmann to deny this request. McConnell suggested that motions be made in the affirmative and then committee members may vote “nay” if they so choose. Erdmann stated that she does not want to do that; she prefers to make a motion “to deny.” **Traxler seconded the motion to deny the request and forward to the county board for action. The motion was carried on a 4-1 vote: Erdmann – aye, Henke – aye, McConnell – nay, Sell – aye, Traxler – aye.**

Assistant Corporation Counsel advised the committee that they should state their reason for the way they voted.

Erdmann – I voted to deny because of the past decision by this committee and I don't see where this is causing a hardship to the developer that they need to have this rezoned.

Traxler – The committee needs to be consistent with decisions.

Henke – I voted to deny because the committee denies farm parcels and we need to stay consistent with the code.

2) RC Recreational District to R-1 Single Family Residence District (Exhibit B)

Motion by Henke/Traxler to deny the rezone request and forward to the county board for action. The motion was carried on a 4-1 vote: Erdmann – aye, Henke – aye, McConnell – nay, Sell – aye, Traxler – aye.

Henke stated that he voted to deny the rezone request because he considers it spot zoning. Traxler reiterated that the committee needs to be consistent.

3) R-1 Single Family Residence District to RC Recreational District (Exhibit C)

McConnell read the staff comments.

Traxler – This is a sensitive area to rezone. It would be spot zoning and we need to stick with our guidelines and deny this.

McConnell – I am fearful that this outlot would open the door to back-lot development. It's right on the lake front.

Erdmann – The developer has not mentioned what the use would be for this outlot. It should stay the way it is.

Shute pointed out that, although the use was not stated in the application, the developer did mention tonight that they are looking to preserve this site and they feel that the RC district would be appropriate. If that is their intent, the more appropriate zoning district would be NRC – Natural Resource Conservancy District.

Motion by Traxler/Sell, unanimously carried on roll call (5-ayes, 0-nays) to deny the rezone request and forward to the county board for action. Motion carried.

4) R-1 Single Family Residence District to C-2 Extensive Commercial District (Exhibit D)

McConnell read the staff comments. The committee discussed deed restrictions and conditional uses for this request.

Motion by McConnell/Henke, unanimously carried on roll call (5-ayes, 0-nays) to deny the rezone request and forward to the county board for action. Motion carried.

8:26 p.m. Motion by Traxler/Erdmann, unanimously carried, to take a brief recess. Motion carried.

8:36 p.m. The committee reconvened.

Item VII: Owner: Lawsonia, Inc. and American Baptist Assembly c/o Ken Giacoletto **Agent:** Davel Engineering, Inc. **Tax Parcel # and Description:** Affected parcel numbers for Lawsonia, Inc. 004-1776-0000, 004-01776-0100, 004-01776-0101 and 004-01777-0000; affected parcels for American Baptist Assembly 004-0724-0000, 004-00724-0100, 004-01780-0000, 004-0725-0100, 004-0728-0000, 004-0731-0000, 004-0732-0000, 004-0872-0000 all parcels located in part of Section 25 T16N R12E and part of Section 30 T16N R13E Town of Brooklyn. The site is generally located along the south side of STH 23 on the east side of the Green Lake Conference Center grounds. **Location of Premises Affected:** Generally located south of State Road 23, site known as Green Lake Conference Center **Explanation:** Variances related to the ordinance standards of county land division ordinance for Estates of Lawsonia Preliminary Plat.

a) Public Hearing

Attorney Steven Sorenson, Sorenson Law Office – Questioned why the developer had not filled out variance application forms.

Erdmann – Stated that she feels that, by doing it this way, the committee is doing the work for the developers. They drew a plat that doesn't conform and they didn't ask for variances. The committee should go ahead and deny the preliminary plat.

Haase – Suggested that the committee go ahead and review the plat and allow public comment on variances and the plat together. The committee can deny it, approve it, or approve it with conditions.

McConnell – Proposed that the committee go ahead with the public hearing.

Henke – Agreed that it would be good to go ahead and find out how the public feels about it.

Mike Wuest, Chairman for the Town of Brooklyn – Announced that, after consulting with lawyers, the Town of Brooklyn has decided to take over the private roads. That should eliminate the variances pertaining to the road issues.

Haase – In Rice vs. the City of Oshkosh, the Wisconsin Supreme court held that the authority to approve the public improvement would be the town; in this case, the Town of Brooklyn.

Mary Lofgren – The developer at the beginning said this would be a good thing because it would be a gated community.

McConnell – This is no longer a county matter.

Tom Johnston, W2347 Carpenter Lane – Asked that the committee ask Mr. Wuest if this has been adopted by the town.

Beth Johnston Stephenson, W2347 Carpenter Lane – Expressed concern about the cul de sacs. Asked that the developer clearly label the plat. It's a safety issue.

Hazelbaker – Clarified the purpose of plat review.

Duimstra – Asked the committee to approve the preliminary plat subject to two points. One is the redesign to conform with existing zoning dealing with the Exhibits A and B. The second point, the dedication of public roads to the Town of Brooklyn.

Public hearing closed.

b) Committee Discussion and Deliberation

c) Committee Decision

Haase – Regarding the variances, advised that there are no variances on which to act since the Town of Brooklyn is going to take the improvements.

Item VIII: Owner: Lawsonia, Inc. and American Baptist Assembly c/o Ken Giacoletto **Agent:** Davel Engineering, Inc. **Tax Parcel # and Description:** Affected parcel numbers for Lawsonia, Inc. 004-1776-0000, 004-01776-0100, 004-01776-0101 and 004-01777-0000; affected parcels for American Baptist Assembly 004-0724-0000, 004-00724-0100, 004-01780-0000, 004-0725-0100, 004-0728-0000, 004-0731-0000, 004-0732-0000, 004-0872-0000 all parcels located in part of Section 25 T16N R12E and part of Section 30 T16N R13E Town of Brooklyn. The site is generally located along the south side of STH 23 on the east side of the Green Lake Conference Center grounds. **Location of Premises Affected:** Generally located south of State Road 23, site known as Green Lake Conference Center **Explanation:** Review of Preliminary Plat for Estates of Lawsonia.

a) Public Hearing

Dominowski – Spoke in favor of the request.

Hazelbaker – Spoke in favor of the request.

Brad Karol, W2623 N Valley View Drive, employee of the ABA – Spoke in favor of the request.

Martens – Spoke against the request.

Richard Bishop, W2354 Carpenter Lane – Spoke against the request.

Tom Carpenter, W2317 Carpenter – Spoke against the request.

Stephenson – Spoke against the request.

Sorenson – Spoke against the request.

Public hearing closed.

b) Committee Discussion and Deliberation

The committee agreed that they didn't have all of the information they need to make a decision on the preliminary plat.

Motion by Traxler/Sell, to deny the preliminary plat for the Estates of Lawsonia.

McConnell commented that she would like to see this proceed but the committee needs information that has not been made available. The committee needs the lots in conformity, the permits, the 10% park dedication, better paperwork and information.

Haase reminded the committee that, if agreed upon by the county and the developers, there could be an extension. Attorney Duimstra presented an extension agreement signed by Lindenwood Development. Attorney Martens pointed out that the applicant is the ABA.

The committee agreed that 90 days would be appropriate.

Traxler rescinded his motion to deny the preliminary plat and requested that the developers have a minimum of 90 days, 120 days maximum, to obtain the information the committee is requiring. Sell agreed.

Motion by Traxler/Sell, unanimously carried on roll call (5-ayes, 0-nays) to rescind the motion to deny the preliminary plat and mutually agree with the developers to lay over action for 90 to 120 days maximum to allow submittal of additional preliminary plat information. Motion carried.

c) Committee Decision

PUBLIC COMMENT - None

CORRESPONDENCE - None

DEPARTMENT/COMMITTEE ACTIVITY - None

GENERAL COMMITTEE DISCUSSION

a) Such other matters as authorized by law

Shute asked what additional information the committee wanted him to prepare for them. The committee members listed the following: permits and other agreements, a State of Wisconsin letter, anything from the Army Corp of Engineers, any information on delineation.

CLAIMS

Motion by Sell/Erdmann, unanimously carried, to approve payment in the amount of \$17,542.00 for the new department vehicle for the code enforcement office. Motion carried.

NEXT MEETINGS DATES

June 25, 2008: Business Meeting – 6 p.m.

July 2, 2008: Business Meeting - 4:30 p.m.

Public Hearing – 6 p.m.

ADJOURN

Motion by Erdmann/Sell, unanimously carried, to adjourn. Motion carried.

Time: 9:50 p.m.

Recorded by Carole DeCramer
Committee Secretary

APPROVED ON:
June 25, 2008